

IN THE IOWA DISTRICT COURT  
FOR BLACK HAWK COUNTY

FILED  
2012 MAR 27 PM 2:18  
CLERK OF DISTRICT COURT  
BLACK HAWK COUNTY, IOWA

David Deibler, Lisa Osborn, Melanie )  
Simpson, Christian Andrews, Anna )  
Andrews, Rowena Tan, Michael Gasser, )  
Ryan Haynes, Sarah Albertson-Corkery, )  
Larry Quigley, Christopher Corkery, Ken )  
Bleile, Stephen Mong M.D., Elizabeth )  
Mong, Carol Fishback, Stefanie Rose, Laura )  
O'Connell, Patricia O'Connell, Dawn Ask- )  
Martin, Amy VanArsdale, Stephen )  
VanArsdale, Amy Turner-Hoeppner, Jaynie )  
Feldman, Chad Feldman, Linda Reichle- )  
Heinzel, Laurel Shaw, Douglas Shaw, )  
Patricia Nelson, William Nelson, Gran )  
Wetzel, Michelle Wetzel, Maralyn Fagan, )  
Barb Schif, Stacy Glasscock, Daniel )  
Glasscock, M.D., Gail Mauer, Andrew )  
Mauer, )  
Petitioners, )  
v. )  
IOWA BOARD OF REGENTS, )  
Respondent. )

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Case No. CVCV 118609

**PETITION FOR JUDICIAL REVIEW  
PURSUANT TO IOWA CODE  
CHAPTER 17A**

COMES NOW the Petitioners, pursuant to Iowa Code Chapter 17A, and for their Petition for Judicial review state:

**PARTIES AND VENUE**

1. Petitioners are citizens of Black Hawk County who are personally aggrieved as parents, educators, or concerned citizens, by the decision of the Iowa Board of Regents February 27, 2012 decision to close the Iowa Research and Development School that was created by the Iowa legislature, codified in Iowa Code Chapter 256G and created by 2009 Acts. ch 177, §§ 49-57. (A copy of which is attached hereto and incorporated herein as Exhibit "A")

2. Respondent, Iowa Board of Regents (hereinafter “Board of Regents”), is a legislatively created body created by the Iowa General Assembly in 1909, whose members are appointed by and answerable to the Governor of Iowa”, which is statutorily charged with governing including the university of Iowa hospitals and clinics; the Iowa state university of science and technology (“Iowa State University”), including the agricultural experiment station; the university of northern Iowa (“University of Northern Iowa”), the Iowa braille and sight saving school; the state school for the deaf; the Oakdale campus; and the university of Iowa hospitals and clinic’s center for disabilities and development. Iowa Code § 262.7.
3. Because all petitioners reside in Black Hawk County, Iowa, venue is proper in Black Hawk County, Iowa pursuant to Chapter 17A.19 Iowa Code.
4. This is a petition for judicial review of agency action other than a decision in a contested case. Because there is no statutory or constitutional entitlement to a contested case hearing, there is no requirement of exhaustion of contested case remedies.

#### **GENERAL STATEMENT OF FACTS CONCERNING PETITION**

5. In 2010, the Iowa General Assembly enacted Iowa Code Chapter 256G of the Iowa Code and transformed Malcolm Price Laboratory School and the Center for Early Development Education into Iowa’s “Research and Development School”, not a lab school.
6. Iowa Code § 256G.1 reads in pertinent part that “...it is the intent of the general assembly to develop a state research and development pre-kindergarten through grade twelve school....” 2009 Acts. ch 177, § 49.
7. Iowa Code § 256G.2(4) explicitly defines “Research and development school” as “a pre-kindergarten through grade twelve research, development, demonstration, and dissemination school using expanded facilities at the center for early development education, *also known as the Price Laboratory School, in Cedar Falls.*” (emphasis added) 2009 Acts. ch 177, § 50.
8. Iowa Code § 256.4 provides a limited grant of authority to the Board of Regents and states: “The board of regents shall be the governing entity of the research and development school and as such shall be responsible for the faculty, facility, grounds and staffing.” 2009 Acts. ch 177, § 52.
9. On February 22, 2012, the President of the University of Northern Iowa, Benjamin Allen, announced his intention to present the Iowa Board of Regents with his

recommendation that the Board of Regents close the Iowa Research and Development School located on the University's campus.

10. Prior to notifying the public or the parents, students, and educators at the Iowa Research and Development School, the Board of Regents had discussed not only the closing of the Iowa Research and Development School, they also discussed that any mention of a special meeting of the Board of Regents to close the school should remain confidential and unavailable to the general public.
11. Soon after announcing his intention to make a recommendation to close the Iowa Research and Developmcnt School, President Allen, in a public interview, announced the process that the University needed to follow in order to eliminate the Iowa Research and Development School. He stated:

“We need to get a docket, material, to the Board (Board of Regents) and the Board will then decide when to hear it, when to review it and they’ll make a decision. We have a March meeting scheduled for March 21 Board meeting, I forget when it is, and I am sure that will be on there next meeting so, then they’ll decide, or not decide, or postpone. If they decide, if they accept our recommendation then the issue will be, we’d have to go to the state legislature and say, to make this happen we have to basically disentangle Price Lab School from the R & D School (Research and Development School) and we want to keep the R & D concept here.”

12. One day later, on February 23, 2012, the Board of Regents released a public statement to “express our support for President Allen and the important steps he announced today.” The public statement also announced a “special meeting” to be scheduled *four days later* on February 27, 2012. The Statement from Board of Regents is attached hereto as Exhibit “B” and incorporated herein.
13. On February 27, 2012, in a meeting that lasted less than an hour, the Board of Regents rejected a Motion to Defer their decision to close the Iowa Research and Development School in order to obtain an opinion from the Iowa Attorney General concerning the legality of their attempt to close the school and subsequently voted to close the Malcolm Price Laboratory School on a 7-0 vote. (*See Minutes of February 12, 2012 Telephonic Board Meeting attached hereto and incorporated herein as Exhibit “C”*).
14. Petitioners seek review of the Iowa Board of Regent’s February 27, 2012 action to close the Iowa Research and Development School a/k/a Malcolm Price Laboratory School (hereinafter “Iowa Research and Development School ”).

15. Petitioners allege that the Board of Regents is without statutory or legal authority to close the Iowa Research and Development School and said closure is in direct contravention of the clear and unambiguous legislative intent of 2009 Acts. ch 177, § 49, and further the proposed closure constitutes executive intrusion upon the legislative function in violation of Article III of the Iowa Constitution.
16. President Allen has already announced plans to request that the Board of Regents demolish the Research and Development School.

### CLAIM FOR RELIEF

For grounds for relief Petitioners state:

17. Pursuant to the provisions of Iowa Code Chapter 256G, the Board of Regents lacks the legal or statutory authority to close Research and Development School.
18. The Board of Regents likely relied upon Iowa Code § 265.1 in asserting its authority to order the closure of Research and Development School because §265.1 gives the Board of Regents general authority to *establish* and operate *laboratory schools*.
19. Unlike § 265.1 wherein the ceded to the Board of Regents the authority to *establish* and operate laboratory schools, the Iowa Legislature *established* Price Laboratory School as a “Iowa Research and Development” school and granted the Board of Regents with the limited authority to *operate* the school.
20. The Iowa legislature created the “Iowa Research and Development” school by legislative act. The Board of Regents is an office of the “executive branch” of the Iowa government. The Iowa legislature did not specifically authorize the Board of Regents or any part of the executive branch of Iowa’s government to eliminate the statutorily mandated existence of the “Iowa Research and Development School”.
21. Unlike the United States Constitution, the Constitution of the State of Iowa expressly prohibits officers of one branch of government from exercising the powers of another, in absence of specific authorization. See Constitution of the State of Iowa, Article III.
22. Because the Board of Regents was not granted the legislative authority to *establish* a “Research and Development School”, it in no way has the corresponding authority to *disestablish* the school any more than it would have to *disestablish* the University of Iowa Hospitals and Clinics or the Iowa School of the deaf. Such an attempt to *disestablish* the Iowa Research and Development

School is an usurpation of the legislative function by the executive branch which is expressly prohibited by the Iowa Constitution.

23. Petitioners seek an order from the Court invalidating the February 27, 2012 decision of the Board of Regents closing Price Laboratory School which in effect closes Iowa's Research and Development School.

#### **REQUEST FOR STAY OF AGENCY ACTION – Section 17A.19(5)**

For Request for Immediate Stay of Agency Action, Petitioners state:

24. No temporary remedy is available to the Petitioners save through the Court's invocation of the power granted to it in Iowa Code § 17A.19(5).
25. Given the plain language of Chapter 256G and the Board of Regent's misguided reliance on Iowa Code § 265.1, Petitioners are likely to prevail.
26. The citizens of Iowa will suffer irreparable harm and injuries if a stay is not granted based upon, but not limited to, the following grounds:
  - a. Tenured educators will permanently lose employment and tenure track status causing irreparable injury to career and extreme financial hardship.
  - b. Non-tenured educators, who are under contract through the end of the 2012-2013 school year will be forced to choose between breaching their contractual agreements with the Iowa Research and Development School to find other comparable employment or risk cancellation of their employment contracts by the Iowa Research and Development School at a later date giving them no reasonable or realistic opportunity to find comparable employment with another school, causing irreparable injury to career and extreme financial hardship.
  - c. Students and parents will lose the opportunity to "open enroll" their students in other school districts as provided for in Iowa Code § 282.18 as such "open enrollment" requests must be made prior to March 1 of the preceding school year. *See* Iowa Code § 282.18(2)(a). "Open enrollment" requests made after March 1 of the preceding school year are subject to approval under a limited set of circumstances which would not apply to students who suffer as a result of the closure of the "Iowa Research and Development School". *See* Iowa Code § 282.18(4)(b).
  - d. Students will be irreparably emotionally harmed through the loss of their personal relationships with other students and staff at the Iowa Research

and Development School.

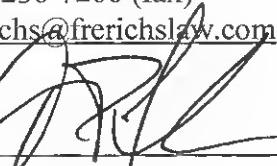
- e. The closure of the Research and Development School has been cited as a reason for custodial change of children currently attending the Iowa Research and Development School with specific allegations claiming, "A substantial change in circumstances has occurred in this matter in that the employment of the Petitioner is no longer secure, and the children are being faced with a change in schools, due to the closure of the Malcolm Price Laboratory School" and that "Due to Petitioner's instability in of job (sic), and due to the fact that the only reason that the parties currently reside in Iowa is due to her job and insistence on her employment through the Malcolm Price Laboratory School, Respondent is requesting that the dissolution decree be modified placing the children in his primary care. (Out-of state).
  - f. Numerous families have relocated to Cedar Falls to be near the Iowa Research and Development School not only because of the educational opportunities offered by the Research and Development School but also for the employment opportunities and guarantees offered by the school.
  - g. Residents of Cedar Falls whose students are attending the Iowa Research and Development School will face a substantial loss of property value in their homes.
  - h. Demolition of the Iowa Research and Development will cause obvious and permanent irreparable harm.
27. A stay of the Board of Regent's actions will not irreparably harm any other parties.
28. Any public interest relied upon by the Board of Regents in it's decision does not overcome it's lack of authority to act.
29. Petitioners are entitled to an Order staying the decision of the Board of Regents and precluding any further action which in any way interferes with the statutory existence of Iowa Research and Development School absent legislative action to the contrary.

**WHEREFORE**, Petitioners pray the Court enter an order (1) setting an immediate hearing on the Request for Stay and thereafter enter an Order staying any action by the Board of Regents in furtherance of its decision to close the Iowa Research and Development School, also known as Price Laboratory School, in Cedar Falls and (2) finding the Board of Regents lacks the legal authority to close the Iowa Research and Development School, also known as Price Laboratory School, in Cedar Falls and any other relief the Court deems appropriate under the circumstance.

**FRERICHS LAW OFFICE, P.C.**

Attorney for Petitioners  
106 East Fourth Street  
P.O. Box 328  
Waterloo, IA 50704-0328  
(319) 236-7204 (tel)  
(319) 236-7206 (fax)

Tfrerichs@frerichslaw.com

By 

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Thomas P. Frerichs  
AT 0002705



## Exhibit A

Iowa 2009 Acts, ch 177, §§ 49 to, 57

### CHAPTER 177

#### APPROPRIATIONS — EDUCATION

##### 1. S.F. 470

AN ACT relating to the funding of, the operation of, and appropriation of moneys to the college student aid commission, the department for the blind, the department of education, and the state board of regents, providing for related matters, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

\* \* \*

#### DIVISION II RESEARCH AND DEVELOPMENT SCHOOL

##### 1. Sec. 49. NEW SECTION. 256G.1 LEGISLATIVE INTENT.

It is the intent of the general assembly to develop a state research and development prekindergarten through grade twelve school in order to do the following:

1. To raise and sustain the level of all prekindergarten through grade twelve students' educational attainment and personal development through innovative and promising teaching practice.
2. To enhance the preparation and professional competence of the educators in this state through collaborative inquiry and exchange of professional knowledge in teaching and learning.
3. To focus on research that transforms teaching practice to meet the changing needs of this state's educational system.

##### Sec. 50. NEW SECTION. 256G.2 DEFINITIONS.

For purposes of this chapter:

1. "Department" means the department of education.
2. "Director" means the director of the department of education.
3. "President" means the president of the university of northern Iowa.
4. "Research and development school" means a prekindergarten through grade twelve research, development, demonstration, and dissemination school using expanded facilities at the center for early development education, also known as the Price laboratory school, in Cedar Falls.

5. "University" means the university of northern Iowa.

Sec. 51. NEW SECTION. 256G.3 RESEARCH AND DEVELOPMENT SCHOOL FUNDING.

1. a. (1) The university and the board of directors of the Cedar Falls community school district shall develop a student transfer policy for the research and development school that will protect and promote the quality and integrity of the teacher education program and the viability of the education program of the Cedar Falls community school district.

(2) The policy shall include, in order of consideration, the reasons for which a request to transfer to the research and development school will be allowed by the school district. The research and development school may deny any request for transfer under the policy and such denial for transfer is not subject to appeal under section 290.1. The research and development school shall report the transfer and enrollment of a new student directly to the department.

b. The research and development school shall create and maintain a basic geographic boundary line agreement with the Cedar Falls community school district. The boundary line agreement shall ensure that students currently enrolled at the center for early development education shall continue to have priority access to enrollment at the research and development school. If such an agreement cannot be reached, the boundary line for the research and development school shall be the official boundary line of the Cedar Falls community school district.

c. Open enrollment under section 282.18 applies to the research and development school.

2. Funds provided by the university for the center for early development education under section 262.71 shall be redirected as applicable to support the research component at the research and development school.

Sec. 52. NEW SECTION. 256G.4 RESEARCH AND DEVELOPMENT SCHOOL — GOVERNANCE.

1. The board of regents shall be the governing entity of the research and development school and as such shall be responsible for the faculty, facility, grounds, and staffing.

2. The department shall be the accreditation agency and as such shall serve as the authority on teacher qualification requirements and waiver provisions.

3. a. A seventeen-member advisory council is created, composed of the following members:

(1) Three standing committee members as follows:

(a) The director.

(b) The president.

(c) The director of the research and development school, serving as an ex officio, nonvoting member.

(2) Ten members shall be jointly recommended for membership by the president and the director

and shall be jointly approved by the state board of regents and the state board of education, shall serve three-year staggered terms, and shall be eligible to serve for two consecutive three-year terms on the council in addition to any partial, initial term:

- (a) One member representing prekindergarten through grade six public school teachers, who is also a participating member of a teacher quality committee created pursuant to section 284.4, subsection 1, paragraph "c".
- (b) One member representing grade seven through grade nine public school teachers, who is also a participating member of a teacher quality committee created pursuant to section 284.4, subsection 1, paragraph "c".
- (c) One member representing grade ten through grade twelve public school teachers, who is also a participating member of a teacher quality committee created pursuant to section 284.4, subsection 1, paragraph "c".
- (d) One member representing prekindergarten through grade twelve administrators.
- (e) One member representing area education agencies.
- (f) One member representing Iowa state university of science and technology.
- (g) One member representing the university of Iowa.
- (h) One member representing parents of students at the research and development school.
- (i) One member representing business and industry.
- (j) One member representing private colleges in the state.

(3) Four members of the general assembly serving as ex officio, nonvoting members, one representative to be appointed by the speaker of the house of representatives, one representative to be appointed by the minority leader of the house of representatives, one senator to be appointed by the majority leader of the senate after consultation with the president of the senate, and one senator to be appointed by the minority leader of the senate.

b. One of the members representing public school teachers approved for membership pursuant to paragraph "a", subparagraph (2), subparagraph divisions (a) through (c) shall be an active teacher in the Cedar Falls community school district.

c. (1) The advisory council shall review and evaluate the educational processes and results of the research and development school.

(2) The advisory council shall provide an annual report to the president, the director, the state board of regents, the state board of education, and the general assembly.

4. a. An eleven-member standing institutional research committee, appointed by the president and the director, is created, composed of the following members:

(1) The director of research at the research and development school or the person designated with

this responsibility.

- (2) One member representing the university of northern Iowa.
  - (3) One member representing Iowa state university of science and technology.
  - (4) One member representing the university of Iowa.
  - (5) One member representing business and industry.
  - (6) One member representing prekindergarten through grade six public school teachers, who is also a participating member of a teacher quality committee created pursuant to section 284.4, subsection 1, paragraph "c".
  - (7) One member representing grade seven through grade nine public school teachers, who is also a participating member of a teacher quality committee created pursuant to section 284.4, subsection 1, paragraph "c".
  - (8) One member representing grade ten through grade twelve public school teachers, who is also a participating member of a teacher quality committee created pursuant to section 284.4, subsection 1, paragraph "c".
  - (9) One member representing the boards of school districts selected from a list of nominees submitted by the Iowa association of school boards.
  - (10) One member representing the department.
  - (11) One member representing private colleges in the state.
- b. The appointed members should collectively possess the following characteristics:
- (1) Be well informed about the educational needs of students in the state.
  - (2) Be aware of and understand the standards and protocol for educational research.
  - (3) Understand the dissemination of prekindergarten through grade twelve research results.
  - (4) Understand the impact of educational research.
  - (5) Be knowledgeable about compliance with human subject protection protocol.
- c. One of the members representing public school teachers approved for membership pursuant to paragraph "a", subparagraphs (6) through (8) shall be an active teacher in the Cedar Falls community school district.
- d. The committee shall serve as the clearinghouse for the investigative and applied research at the research and development school.
- e. The committee shall create research protocols, approve research proposals, review the quality and results of performed research, and provide support for dissemination efforts.

Sec. 53. Section 257.6, subsection 1, paragraph b, Code 2009, is amended by striking the paragraph.

Sec. 54. Section 282.18, Code 2009, is amended by adding the following new subsections:

**NEW SUBSECTION. 15A.** a. If a request under this section is for transfer to a laboratory school, as described in chapter 256G, the student, who is the subject of the request, shall be included in the basic enrollment of the student's district of residence and the board of directors of the district of residence shall pay to a laboratory school the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year.

b. Notwithstanding subsection 7, a district of residence shall not be required to pay the state cost per pupil for a student attending a laboratory school during the school year beginning July 1, 2010, if the student was not included in the district of residence's enrollment count for funding purposes in the school year beginning July 1, 2009.

**NEW SUBSECTION. 15B.** a. The total enrollment of the research and development school shall be limited to six hundred fifty students.

b. Open enrollment requests accepted by the research and development school shall be limited to a five percent increase per year of students from each of the Cedar Falls community school district and the Waterloo school district over the previous year's enrollment at the research and development school.

c. The total number of students enrolled in the research and development school from the Cedar Falls community school district shall be limited to not more than ten percent of the total district enrollment of the Cedar Falls community school district.

d. Open enrollment requests accepted by the research and development school from a school district shall be limited to not more than two percent of a school district's previous year's total enrollment count. This subsection does not apply to the Cedar Falls community and Waterloo school districts.

**Sec. 55. RESEARCH AND DEVELOPMENT SCHOOL — INFRASTRUCTURE FUNDING STUDY.** The department of education, in collaboration with representatives of the university of northern Iowa, as designated by the president, shall create a report about potential access to various infrastructure funding for the research and development school. The department shall submit the report to the general assembly and the governor by January 15, 2010.

**Sec. 56. RESEARCH AND DEVELOPMENT SCHOOL INFRASTRUCTURE.**

1. a. There is appropriated from the general fund of the state to the university of northern Iowa for the fiscal year beginning July 1, 2009, and ending June 30, 2010, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For a contract with a design firm to evaluate the condition of the center for early development

education in Cedar Falls and determine an approximate cost of both renovation of the current facility and new construction with a recommendation as to which is more feasible:

\$ 35,000

b. The design firm's recommendation shall consider the following property elements:

(1) Grounds, utility, and paving systems.

(2) Exterior systems, including the roof, walls, windows, exterior doors, and structural components.

(3) Interior systems, including walls, doors, floors, and ceilings.

(4) Fire and life safety issues.

(5) Readily achievable design features meeting the requirements of the federal Americans With Disabilities Act.

(6) Heating, ventilation, and air conditioning including control mechanisms.

(7) Electrical and electrical distribution system.

(8) Plumbing.

(9) Fire protection.

(10) Elevators.

(11) Special construction.

c. The design firm shall report in fiscal year 2010–2011 to the president, the director, and the transition team the results of its evaluation and recommendation. The transition team shall report the design firm's findings to the general assembly by January 15, 2012.

2. Leadership in energy and environmental design certification shall be sought in order that the research and development school serve as a model of energy efficiency and design.

3. A three-year timeline to establish the research and development school is proposed for the university and the department. A transition team, appointed by the president and the director, shall develop and implement specific transition plans for the first year of the transition and for the entire three-year transition period in order to establish a functioning research and development school at the end of the transition period. The transition team shall include but not be limited to two members who are active teachers in the Cedar Falls community school district and one member who is an active teacher in the Waterloo school district. The transition team shall use the recommendations for each year of the transition as submitted in the report of the committees required by 2008 Iowa Acts, chapter 1101, to oversee the transition.

## Sec. 57. EFFECTIVE DATES.

1 This division of this Act takes effect July 1, 2009.

2. Notwithstanding subsection 1, the sections of this division of this Act enacting section 256G.3 and amending section 257.6, subsection 1, and section 282.18 take effect July 1, 2010.

Approved May 26, 2009, with exceptions noted.

**Governing Iowa's public  
universities and special schools**

University of Iowa  
Iowa State University  
University of Northern Iowa  
Iowa School for the Deaf  
Iowa Braille and Sight Saving School  
Lakeside Lab Regents Resource Center  
Quad-Cities Graduate Center  
Southwest Iowa Regents Resource Center  
Tri-State Graduate Center



**BOARD OF  
REGENTS**  
STATE OF IOWA

Craig A. Lang, President, Brooklyn  
Bruce L. Rastetter, Pro Tem, Hubbard  
Nicole C. Carroll, Carroll  
Robert N. Downer, Iowa City  
Jack B. Evans, Cedar Rapids  
Ruth R. Harkin, Cumming  
Greta A. Johnson, Le Mars  
David W. Miles, Dallas Center  
Katie S. Mulholland, Marion

Robert Donley, Executive Director

**STATEMENT FROM PRESIDENT CRAIG LANG ON UNI PRICE LABORATORY SCHOOL**

February 23, 2012

Contact: Robert Donley, Executive Director, 515-281-3934

On behalf of the Board of Regents, I want to express our support for President Ben Allen and the important steps he announced today that we believe will ensure the fiscal and academic integrity of the university well into the future. We are confident that President Allen's leadership and strategic vision for the University of Northern Iowa will continue to ensure the highest academic quality for our students.

The Board of Regents will meet in a telephonic session on Monday, February 27, at 1:00 p.m., to consider the recommendations of President Allen relative to the Malcolm Price Laboratory School.



**BOARD OF REGENTS  
STATE OF IOWA**

**AGENDA ITEM 4b  
MARCH 21, 2012**

Contact: Andrea Anania

**MINUTES OF FEBRUARY 27, 2012, TELEPHONIC BOARD MEETING**

**BOARD OFFICE  
11260 AURORA AVENUE  
URBANDALE, IOWA  
(Host Location)**

**Board Members**

|                  |                      |
|------------------|----------------------|
| Nicole Carroll   | Via phone            |
| Robert Downer    | Via phone            |
| Jack Evans       | Via phone            |
| Ruth Harkin      | Via phone            |
| Greta Johnson    | Via phone            |
| Craig Lang       | Present at host site |
| David Miles      | Present at host site |
| Katie Mulholland | Via phone            |
| Bruce Rastetter  | Present at host site |

**Staff Members**

Present at host site: Andrea Anania, Brad Berg, Marcia Brunson, Aimee Clayton, Tim Cook, Bob Donley, Sheila Doyle Koppin, Tom Evans, Diana Gonzalez, Patrice Sayre

Via phone: Todd Stewart

**Regent Institutions Connected**

SUI      Mark Braun, David Drake, Doug True

ISU      Warren Madden

UNI      Ben Allen, Pat Gadelmann, Gloria Gibson, Dwight Watson, Michael Hager, Terry Hogan

ISD      Jeanne Prickett

IBS      Patrick Clancy

**Others**

Dr. David Stokes, Cedar Falls School District (via phone)

Dr. Gary Norris, Waterloo School District (via phone)

The corresponding memorandum, an integral component of the minutes, is available on the Board of Regents website: <http://www.regents.iowa.gov/>. Copies of the memorandum can also be obtained from the Board Office by calling 515-281-3934.

**BOARD OF REGENTS  
STATE OF IOWA**

**AGENDA ITEM 4b  
PAGE 2**

**Call to Order for February 27, 2012**

President Lang called the Board of Regents meeting to order at 1:05 p.m.

Roll Call:

| <u>Regent</u> | <u>Carroll</u> | <u>Downer</u> | <u>Evans</u> | <u>Harkin</u> | <u>Johnson</u> | <u>Lang</u> | <u>Miles</u> | <u>Mulholland</u> | <u>Rastetter</u> |
|---------------|----------------|---------------|--------------|---------------|----------------|-------------|--------------|-------------------|------------------|
| Present       | x              | x             | x            | x             | x              | x*          | x*           | x                 | x*               |
| Absent        |                |               |              |               |                |             |              |                   |                  |

\* Present at the host site.

**University of Northern Iowa Price Laboratory School**

President Lang made the following remarks:

*"Before the Board begins its consideration of the recommendation in the agenda item, I would like to first extend thanks to the countless number of Iowans, students, parents, teachers, alumni, and community members and others who have expressed to the Board their thoughtful and passionate views about the Price Laboratory School at UNI. We have read your emails, listened to your phone calls, and watched in the news and social media your many efforts in response to President Allen's announcement last week. Your outpouring of strength and concern is a great testament to the University."*

*As we begin our meeting today, it is important to accept two critical realities. First, these are difficult times at the University of Northern Iowa. State budget cuts of recent years have provided enormous challenges at the UNI and President Allen has responded by making difficult choices in the name of high-quality programs, operational efficiencies, and sustaining the excellence of the University. While both the Board of Regents and President Allen are extremely proud that Iowa students represent 92% of UNI's enrollment and that currently 75% of UNI graduates are working in Iowa, the low percentage of non-resident students substantially hampers the University's revenues. This has been an ongoing challenge for President Allen.*

*The second reality – that despite the tough times at UNI, President Allen is committed to keeping the University sustainable and strong. He has proven that he has the critical vision to balance innovation with fiscal responsibility. He will continue to pursue alternative and innovative models to strengthen the University despite serious funding limitations. Ben is committed to retaining and enhancing UNI's status as a leader in education, regardless of budget restraints.*

*President Allen is an outstanding President. He is leading the University in a manner consistent with the expectations of the Board of Regents and the expectation of Iowans. Once again, this includes his emphasis on high quality programs, cost effective operations, and sustaining the University's excellence. This is at the core of President Allen's recommendations unveiled last week.*

*Whatever the outcome of today's vote, President Allen will need critical time to make necessary adjustments before the fiscal year ends on June 30<sup>th</sup>. With that in mind, the Board has called the meeting today. We are at a critical point for UNI and neither President Allen nor the Board has all the answers. However, the Board has full confidence in President Allen and his continuing commitment to hard work and the difficult strategic and courageous decisions that lie ahead. The future of the University of Northern Iowa is in excellent hands."*

President Allen provided remarks on UNI's strong commitment to be the premier, pre K-12 higher education in the state of Iowa, and among the best in the nation.

President Allen, UNI College of Education Dean Dr. Dwight Watson, Waterloo School District Superintendent Dr. Gary Norris, and Cedar Falls School District Superintendent Dr. David Stokes discussed field experiences for pre-service teachers, research and development, motivation for the recommendation, transition plans for pre K-12 students and UNI students, the financial commitment UNI is contemplating with the Waterloo and Cedar Falls school districts, and UNI faculty involvement.

➤ MOVED by RASTETTER to:

- Approve the request of the University of Northern Iowa to close the Malcolm Price Laboratory School effective June 30, 2012;
- Authorize the Board President to notify the Iowa Legislature and the Governor of the Board's actions; and
- Request that President Allen provide a progress report on the closing of the School to the Board's Education and Student Affairs Committee and the full Board at the April 25-26 Board of Regents meeting.

Regent Downer expressed concern on whether the Board has the authority to close the Malcom Price Laboratory School and requested an Attorney General's opinion.

EVANS SECONDED the MOTION and asked whether an Attorney General's opinion is needed. President Lang said it is his belief that the Board has the authority to close the School. Regent Evans yielded to Regent Downer's comments.

➤ MOVED by DOWNER to:

- Defer consideration to close the Malcom Price Laboratory School until the March 21, 2012, Board of Regents meeting; and
- Seek the Attorney General's opinion with regard to the contemplated action.

NO SECOND. MOTION FAILED.

ORIGINAL MOTION

➤ MOVED by RASTETTER, SECONDED by EVANS, to:

- Approve the request of the University of Northern Iowa to close the Malcolm Price Laboratory School effective June 30, 2012;
- Authorize the Board President to notify the Iowa Legislature and the Governor of the Board's actions; and
- Request that President Allen provide a progress report on the closing of the School to the Board's Education and Student Affairs Committee and the full Board at the April 25-26 Board of Regents meeting.

| <u>Regent</u> | <u>Carroll</u> | <u>Downer</u> | <u>Evans</u> | <u>Harkin</u> | <u>Johnson</u> | <u>Lang</u> | <u>Miles</u> | <u>Mulholland</u> | <u>Rastetter</u> |
|---------------|----------------|---------------|--------------|---------------|----------------|-------------|--------------|-------------------|------------------|
| Aye           | x              |               | x            | x             | x              | x           | x            | x                 | x                |
| Abstain       |                | x             |              |               |                |             |              |                   |                  |

MOTION APPROVED by ROLL CALL.

President Lang adjourned the meeting at 1:58 p.m.